

# TASK FORCE ON RAIL TRANSPORTATION

## Summary of August 9, 2002 Meeting (Meeting #1)

Members present: Rep. Sharon Libby Jones, David Cole, Rep. Thomas Murphy, Rep. Ronald Collins (for Rep. Edgar Wheeler), Sen. Margaret Rotundo, Rep. Charles Fisher (Chair), Sen. John Martin (Chair), Sen. Christine Savage, Steve Francoeur, Robert Grossman

Members absent: Sen. Paul Davis, Michael Murray, Greg Willard

### I. B&A Railroad

**A. Bankruptcy Court.** Following the introduction of task force members, Mr. Fred Yocum provided an overview of the current status of the Bangor and Aroostook Railroad. The B&A is in bankruptcy, and pursuant to Section 363 of the Bankruptcy Code is in the process of being sold. (A hearing on a break up fee motion was occurring in Bankruptcy Court as the task force met today. If the first group loses its bid, it wishes to be reimbursed for some of the costs of preparing to purchase the B&A and putting its bid together.) Jim Howard is the trustee in the case, except that a Canadian trustee must oversee the Canadian portion of the line. It is hoped that the entire motion for sale will be filed by August 30, 2002. All interested parties have been very frustrated by the slow progress of the case. Mr. Yocum is particularly concerned with the slow progress, since winter is not far away and rail preparation needs to be completed before the snow falls.

Mr. Yocum explained that railroad bankruptcies differ from other bankruptcies due to the fact that it is nearly impossible to totally liquidate railroads and that the public interest must be considered in resolving railroad cases. The plan is for B&A to be sold intact, except for its Vermont property north of Newport. Currently, there are three groups receiving information regarding bidding rules and procedures.

**B. Surface Transportation Board (STB).** The B&A case is complicated by the jurisdiction and actions of the STB. The trustee rejected certain contracts with the Canadian Railroad, which the trustee is entitled to do under bankruptcy law. However, the STB position is that trackage rights continue to exist. B&A must decide whether to file an adverse abandonment action, which means going back to Bankruptcy Court to ask for a rejection of the contracts. Whatever happens procedurally, the STB still must approve the ultimate sale of the railroad.

**C. B&A Operations.** Although in bankruptcy, the B&A is currently operating and servicing its shippers. However, it is clear that the railroad is not profitable as it is currently operated. Mr. Yocum identified two areas, in addition to policy recommendations, in which the State can help the railroad.

1. The State can provide rehabilitation money over a certain period of time to any buyer. Some of the money earmarked to go to the railroad for this purpose next year needs to be diverted to help prepare the railroad for winter operations this

year. (A total of \$2 million is needed: \$1 million from the State and \$1 million from all other contributors.)

2. The State can help cushion the blow to operators who will lose jobs as a result of the sale and new operations. Approximately a total of 100 persons in the Bangor area, Aroostook County and the Brownville/Derby/ Milo area will lose their jobs. The State can play a role by helping to provide a bridge for insurance and job training.

**D. Challenges.** In addition to the other complexities of the case, there have been a number of scheduling challenges. The bankruptcy judge wisely consolidated the bankruptcy cases of affiliate companies, which will help. The differences between Canadian and U.S law have presented some issues. Another important piece that may be the biggest challenge is the need to make acceptable deals with the railroad's two largest creditors. Currently about \$67 million is owed and the sale price being discussed is \$50 million. It is unacceptable for the entire purchase price to be consumed by the sale. No one wants the railroad to be insolvent at the end of the day, and it is hoped that after meeting secured creditors' claims there will be some money left for unsecured creditors.

**E. Necessary Changes.** Mr. Yocum identified four changes that need to occur for B&A to operate profitably.

1. First the railroad needs to be properly capitalized.
2. Second, different employment rules must be applied (using common railroad industry standards, which means fewer people would be employed.)
3. Third, the railroad needs to establish different and cooperative working relationships with other railroads (i.e., Canadian Pacific.)
4. Fourth, the railroad needs to increase its traffic/volume. Currently there is too much track for the amount of traffic it has.

**F. Additional Issues.** Other issues that were discussed in the context of B&A were the negotiation of union contracts as part of the bankruptcy, B&A's relationship with CN, increasing passenger rail service and the need for the State to protect its self-interest, which is to keep the railroad running. There are no abandonment plans -- when B&A is sold, it is intended that it be sold as an operating railroad.

## **II. Department of Transportation Overview**

**A. Passenger Rail Service.** Tracy Perez distributed a handout "Explore Maine" and commented on the success of the recent Amtrak service from Portland to Boston. Earnings have exceeded expectations, and the department is continuing to rehabilitate and develop rail, first where the demand is highest, but looking at the entire State with the goal of creating a complete system.

**B. Freight Rail Service.** Rob Elder distributed the executive summary of the final report of the “Maine Integrated Freight Plan.” The freight demand has increased by about 3% per year, while the increase in rail has slightly exceeded that at 3.3%. Approximately 8% of all freight traveling in the State is handled by rail, and 87% is handled by highway. It is expected that this highway service will decrease. There are no direct freight rail grants/monies. Instead there are only loans, so the freight service works closely with the passenger service that pays for most rail upgrades.

## **TASK FORCE ON RAIL TRANSPORTATION**

### **Planning and Information Requests for Future Meetings**

#### **Second Meeting – Tentative August 30, 2002**

- Update on the costs for repairing tracks; comparison of costs in rebuilding roads versus repairing tracks; sources of public funding (DOT)
- Representative from U.S. Customs – why the delay in service? Can more freight be transported directly off the trains without inspection? (Robert Grossman has worked with U.S. Customs in Auburn and can comment on that experience at 3rd meeting)
- Representative from Guilford – have increased speed and increased freight service created improvements in passenger service? (Dave Fink, Pat Paradis)
- Who is using Amtrak? passenger breakdown – how many commuters? tourists? where are they coming into? how can we make progress on North Station access? (DOT, Nate Moulton)
- What has been effective in rail policy and what has not (in terms of what we are doing as a State and in terms of what other states are doing) (DOT, OPLA)
- What recommendations from the 1988 report that have not been implemented are still valid today? (DOT)
- Plan with existing tracks from Portland to Gorham (DOT)
- Who are the players in the purchase of B&A? (DOT)
- Update of Calais Rail Study (DOT) (this may be scheduled for 3rd meeting)
- Comments from Washington County delegation regarding rail needs (this may be scheduled for 3rd meeting)

#### **Third Meeting – Tentative September 13, 2002**

- Representative from St. Lawrence and Atlantic Railroad
- Representative(s) from shippers
- Joe Wischerath, Maine & Company –does rail transportation enter into discussions about bringing business to Maine?
- What can the State do to improve staffing levels for DOT? (DOT)

- How can State promote rail use? Interest, “recruit” users? (DECD, Joe Wischerath)
- Look comprehensively at funding entire railroad system; when help one railroad, others may be weakened (IRAP – need to reestablish funding?)
- DOT presentation -- Maine presenting report on MD north to Canada regarding freight rail (includes copy of major freight corridors) – invite CN and other RRs? (DOT)  
(to be done at 4th meeting if not complete by September 13th)

#### **Fourth Meeting – Tentative October 4, 2002**

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